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December 9, 2004

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*Admitted only in Maryland *Admitted only in Virginia *Practice Limited to Federal Agencies

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Art Unit 1654

DEC 0 9 2004 223

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Re:

U.S. Utility Patent Application

Application No. 09/937,484; 35 U.S.C. § 371 Date: January 23, 2002

For: Use of a Lectin or Conjugates for Modulation of C-Fibre Activity

Inventors: Foster et al.

Our Ref:

1581.0870000/RWE/ALS

Sir:

Transmitted herewith for appropriate action are the following documents:

- 1. Credit Card Payment Form PTO-2038;
- 2. Fee Transmittal Form PTO/SB/17;
- 3. Second Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 (c);
- 4. Fifteen (15) pages of Form PTO-1449 citing fifty-nine (59) documents;
- 5. A copy of fifty-six (56) cited documents; and
- 6. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Commissioner for Patents December 9, 2004 Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Aaron L. Schwartz Agent for Applicants Registration No. 48,181

ALS/law Enclosures 342516v1

PTO/SB/17 (10-04v2)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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ANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

Signature

TOTAL AMOUNT OF PAYMENT (\$) 180.00

Complete if Known							
Application Number	09/937,484						
Filing Date	§ 371 Date: January 23, 2002						
First Named Inventor	Keith Alan Foster						
Examiner Name	Audet, Maury A.						
Art Unit	1654						
Attorney Docket No.	1581.0870000/RWE/ALS						

Date

December 9, 2004

METHOD OF PAYMENT (check all that apply)	FEE CALCULATION (continued)							
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Deposit Deposit Acct. No. 17-3030.	Fee Code	Fee (\$)		Fee (\$)	Fee Description	Fee Paid		
Account Number 19-0036	1051	130	2051		Surcharge - late filing fee or oath			
Deposit Account Sterne, Kessler, Goldstein & Fox P.L.L.C.	1052	50	2052		Surcharge - late provisional filing fee or cover sheet			
Name The Director is authorized to: (check all that apply)	1053	130	1053	130	Non-English specification			
Charge fee(s) indicated below Credit any overpayments	1812	2,520	1812 2	2,520	For filing a request for ex parte reexamination	ļ		
Charge any additional fee(s) or any underpayment of fee(s)	1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action			
Charge fee(s) indicated below, except for the filing fee	1805	1,840*	1805 1	1,840*	Requesting publication of SIR after Examiner action			
to the above-identified deposit account.	1251	110	2251	55	Extension for reply within first month			
FEE CALCULATION	1252	430	2252	215	Extension for reply within second month			
1. BASIC FILING FEE Large Entity Small Entity	1253	980	2253		Extension for reply within third month			
Fee Fee Fee Fee Description Fee Pald	1254	1,530	2254	765	Extension for reply within fourth month			
Code (\$) Code (\$)	1255	2,080	2255	1,040	Extension for reply within fifth month			
1002 350 2002 175 Design filing fee	1401	340	2401	170	Notice of Appeal			
1003 550 2003 275 Plant filing fee	1402	340	2402	170	Filing a brief in support of an appeal			
1004 790 2004 395 Reissue filing fee	1403	300	2403	150	Request for oral hearing			
1005 160 2005 80 Provisional filing fee	1451	1,510	1451	1,510	Petition to institute a public use proceeding			
SUBTOTAL (1) (\$) -0-	1452	110	2452	55	Petition to revive - unavoidable			
	1453	1,370	2453	685	Petition to revive - unintentional			
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE	1301	1,370	2501	685	Utility issue fee (or reissue)			
Extra Claims below Fee Paid Total Claims Z20** = X		490	2502		Design issue fee			
Independent 2** -	1503	660	2503		Plant issue fee			
Claims — — — — — — — — — — — — — — — — — — —	1460	130	1460		Petitions to the Commissioner			
	1807	50	1807		Processing fee under 37 CFR 1.17(q)	180.00		
Large Entity Small Entity Fee Fee Fee Fee Fee Description	1806	180	1806		Submission of Information Disclosure Stmt	100.00		
Code (\$)	8021	40	8021	40	Recording each patent assignment per property (times number of properties)			
1202 18 2202 9 Claims in excess of 20 1201 88 2201 44 Independent claims in excess of 3	1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))			
1203 300 2203 150 Multiple dependent claim, if not paid	1810	790	2810	395	For each additional invention to be			
1204 88 2204 44 ** Reissue independent claims		700			examined (37 CFR 1.129(b))			
over original patent	1801		2801 1802		Request for Continued Examination (RCE)			
1205 18 2205 9 ** Reissue claims in excess of 20 and over original patent	1802	900	1 1002	900	Request for expedited examination of a design application			
SUBTOTAL (2) (\$) -0-		fee (sp						
**or number previously paid, if greater; For Reissues, see above	*Red	uced by	Basic F	iling F	ee Paid SUBTOTAL (3) (\$)	180.00		
SUBMITTED BY A A				***	(Complete (if applicable))			
Name (Print/Type) Aaron L.Schwart			tion No.	T	48.181 Telephone (202) 37	1-2600		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



In re application of:

Confirmation No.: 2134

Foster et al.

Art Unit: 1654

Appl. No.: 09/937,484

Examiner: Audet, Maury A.

35 U.S.C. §371 date: January 23, 2002

Atty. Docket: 1581.0870000/RWE/ALS

For: Use of a Lectin or Conjugates for **Modulation of C-Fibre Activity**

> **Second Supplemental Information Disclosure Statement** under 37 C.F.R. § 1.97(c)

Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. The numbering on this Second Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' First Supplemental Information Disclosure Statement filed on April 18, 2002 in connection with the above-captioned application. Copies of the documents are submitted herewith.

Further to the recent notice "Changes To Support Implementation of the United Trademark Office 21st Century Patent and Strategic Rule," copies of all of the U.S. patents or published patent applications cited on the accompanying PTO-1449 forms need not be provided. 1287 O.G. 67 (October 12, 2004); 69 Fed. Reg. 56481 (September 21, 2004).

In accordance with 37 C.F.R. § 1.98(a)(3), Applicants' undersigned representative submits the following discussion of the relevance of the non-English language documents AO2 and AT14 cited on Form PTO 1449:

Document AO2 is in a foreign language. An unverified English language abstract of document AO2 is provided herewith as document AR14;

Document AT14 is in a foreign language. An unverified English language abstract of document AT14 appears on page 2 of the same document.

The Examiner's attention is directed document AL4 which is the published PCT application from which co-pending U.S. patent application 09/529,130 to Duggan et al. (35 U.S.C. § 371 date: June 22, 2000) is derived. This U.S. patent application is directed to related technical subject matter. The identification of this U.S. patent application is not to be construed as a waiver of secrecy as to this application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination. The substantive examination details and Applicants' replies are also provided herewith as documents AR16 - AT21. The identification of this U.S. Patent Application is not to be construed as a waiver of secrecy as to this application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is

not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application. Attached is our PTO-2038 Credit Card Payment Form in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).

It is respectfully requested that the Examiner initial and return a copy of the enclosed Form PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Aaron L. Schwartz Agent for Applicants Registration No. 48,181

Date: December 9, 2004

1100 New York Avenue, N.W. Washington, D.C. 20005-3934 (202) 371-2600

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	AS	Adar, R., et. al., "The amino acid sequence of <i>Erythrina corallodendron</i> lectin and its homology with other legume lectins," <i>FEBS Lett. 257</i> :81-85, Elsevier Science B.V. (1989)									
	АТ	7	Anthrax Toxi	in Lethal Factor in	ffects of a Chimeric Protein C n Non-neuronal Cells," <i>J. Biol</i> ar Biology (1994)						
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Page 2 of 15

FORM PTO-1449

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

APPLICATION NO. 09/937,484 ATTY. DOCKET NO. 1581.0870000/RWE/ALS FIRST NAMED INVENTOR Foster et al. 35 U.S.C. §371 Date: January 23, 2002 ART UNIT 1654

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	AR	8			combinant immunotoxin contai 8-7542, Abstract No. 8356052					
	AS	Kurazono, H., et. al., "Minimal Essential Domains Specifying Toxicity of the Light Chains of Tetanus Toxin and Botulinum Neurotoxin Type A," <i>J. Biol. Chem.</i> 267:14721-14729, The American Society for Biochemistry and Molecular Biology, Inc. (1992)								
	Lamb, F. I., et. al., "Nucleotide sequence of cloned cDNA coding for preproricin," Eur. J. Biochem. 148:265-270, Blackwell Science Ltd. on behalf of the Federation of European Biochemical Societies, (1985)									
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Page 3 of 15

FORM PTO-1449

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

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	ATTY. DOCKET NO. 1581.0870000/RWE/ALS	APPLICATION NO. 09/937,484
	FIRST NAMED INVENTOR	
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	35 U.S.C. §371 Date:	ART UNIT
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	АМЗ	wo	93/04191	03/04/1993	WIPO			Yes No			
	AN3	wo	93/15766	08/19/1993	WIPO			Yes No			
	AO3	wo	96/12802	05/02/1996	WIPO			Yes No			
	AP3	wo	98/08540	03/05/1998	WIPO			Yes No			
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	AR	9	Law, I. J., "o	Cloning and expr 5:71-79, Elsevier	ession of cDNA for galactose-l Science Ireland Ltd. (1996)	oinding lectin	from peanut no	odules," <i>Plant</i>			
	AS	9	protein prod	Lorberboum-Galski, H., et. al., "Cytotoxic activity of an interleukin 2-Pseudomonas exotoxin chimeric protein produced in Escherichia coli," Proc. Natl. Acad. Sci. USA 85:1922-1926, National Academy of Sciences (1988)							
	AT 9 Murphy, J.R., "Diphtheria-related peptide hormone gene fusions: a molecular genetic approach to chimeric toxin development," <i>Cancer Treat. Res. 37</i> :123-140, Kluwer Academic (1988)										
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

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Page 4 of 15

FORM PTO-1449

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

ATTY. DOCKET NO. 1581.0870000/RWE/ALS	APPLICATION NO. 09/937,484
FIRST NAMED INVENTOR	
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35 U.S.C. §371 Date:	ART UNIT
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	O'Hare, M., et. al., "Cytotoxicity of a recombinant ricin-A-chain fusion protein containing a proteolytically-cleavable spacer sequence," FEBS Lett. 273:200-204. Elsevier Science B.V. (1990)								
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and not considered. Include copy of this form with next communication to Applicant.

Page 5 of 15 APPLICATION NO. 09/937,484

ATTY, DOCKET NO. 1581.0870000/RWE/ALS

FIRST NAMED INVENTOR

Foster et al.

35 U.S.C. §371 Date: January 23, 2002

FORM PTO-1449

SECOND SUPPLEMENTAL

INFORMATION DISCLOSURE STATEMENT

ART UNIT 1654

U.S. PATENT DOCUMENTS EXAMINER DOCUMENT **INITIAL** NUMBER DATE NAME CLASS SUB-CLASS FILING DATE AA AB AC AD ΑE AF AG AH ΑI AJ AK **FOREIGN PATENT DOCUMENTS EXAMINER** INITIAL DOCUMENT DATE COUNTRY **CLASS** SUB-CLASS **TRANSLATION** NUMBER Yes AL No Yes AΜ No Yes AN No Yes ΑO No Yes AP No OTHER (Including Author, Title, Date, Pertinent Pages, etc.) Van Damme, E.J., et. al., "Molecular cloning of the bark and seed lectins from the Japanese pagoda AR <u>11</u> tree (Sophora japonica)," Plant Molec. Biol. 33:523-536, Kluwer Academic Publishers (1997) Williams, D.P., et. al., "Diphtheria toxin receptor binding domain substitution with interleukin-2: genetic AS <u>11</u> construction and properties of a diphtheria toxin-related interleukin-2 fusion protein," Protein Eng. 1:493-498, Oxford University Press (1987) Wood, K.A., et. al., "Preproabin: genomic cloning, characterisation and the expression of the A-chain in ΑT <u>11</u> Escherichia coli," Eur. J. Biochem. 198:723-732, Blackwell Science Ltd. on behalf of the Federation of European Biochemical Societies, (1991) EXAMINER DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance

and not considered. Include copy of this form with next communication to Applicant.

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	AS	14	Welch, M.J	l., et. al., "Ser s," <i>Toxicon 38</i>	nsitivity 8:245-	y of embryonic rat do 258, Pergamon Pres	orsal root ss (Febru	ganglia n ary 2000)	euro	ons to Clostria	lium botulinum
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	АТ	16	Kam, C United S	M., Office Comi	munication for United State d Trademark Office (mailed	es Patent Applicatio I August 14, 2001)	n No. 09/529,130), 15 pages,
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	AT	17	Chalker, E Reply Und	3.E., filing for Un ler 37 C.F.R. § 1	ited States Patent A _l .111" (filed Septemb	oplication No. (per 10, 2002)	09/529,1	30, 43 pa	iges, "An	nendment and
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	AS	18	Chalker, E Reply Und	3.E., filing for Ur der 37 C.F.R. §	iited States Patent Ap 1.111" (filed April 25, 2	plication No. 09/52 2003)	9,130, 1	4 pages, "Ar	nendment And		
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	AS	19		Kam, CM., Office Communication for United States Patent Application No. 09/529,130, 3 pages, United States Patent and Trademark Office (mailed October 23, 2003)								
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Page 15 of 15 APPLICATION NO. 09/937,484

ATTY. DOCKET NO. 1581.0870000/RWE/ALS FIRST NAMED INVENTOR

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FORM PTO-1449

SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

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